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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,771	08/13/2001	Charles R. Buckman	066101.0291	7610

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EXAMINER
AVELLINO, JOSEPH E

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/928,771	BUCKMAN ET AL.
	Examiner	Art Unit	
	Joseph E. Avellino	2143	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 November 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>34,47 and 60-69</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>34,47 and 60-69</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date ___.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 34, 47, and 60-69 are pending in this examination; claims 34 and 47

independent. The Office acknowledges the cancellation of claims 35-46 and 48-59

Claim Rejections - 35 USC § 103

2.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

3.   Claims 34, 47, and 60-69 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Tindal et al. (US 2002/0069274) (hereinafter Tindal) in view of

Patterson (US 2002/0052941).

4.   Referring to claim 34, Tindal discloses a system for programming a packet based

network having a plurality of nodes (i.e. network devices) for providing services to

network subscribers, the system comprising:

a service creation tool (i.e. administrator 110) operable to program a service

definition package (i.e. create a configuration record, or, if one is already defined,

modifying a configuration record) (Figure 7, ref. 260; p. 2, ¶ 15);

a service control center (i.e. network manager unit 140) interfaced with the

packet-based network (i.e. network connecting unit 140 with devices 135) operable to

accept said service definition package (i.e. configuration record) for deployment to at

least one network node, said service control center comprising:

a first logic element operable to select one or more network processors for implementing said service definition package (i.e. locate target network device) (Figure 7, ref. 285);

a second logic element operable to provide network processor-specific instructions (i.e. device-specific commands) and data (i.e. variables) to implement the changes in the configuration record (i.e. "generate commands required to configure target network device") (Figure 7, ref. 290; pp. 3-4, ¶ 35; pp. 5-6, ¶ 51-52);

a third logic element operable to load said instructions and data into said network processor (i.e. "push commands to target network device") (Figure 7, ref. 295; pp. 3-4, ¶ 35; pp. 5-6, ¶ 51-52);

a fourth logic element operable to monitor information from one or more network processors (i.e. health manager 180 operable to poll device to determine status, utilization, congestion, etc.) (p. 4, ¶ 39); and

a fifth logic element operable to utilize said information from said one or more network processors to report status information about said service definition package (i.e. health manager 180 can publish messages regarding network device problems, network problems, etc.) (p. 4, ¶ 39); and

at least one network node (i.e. devices 135) interfaced with the network, the node having a network processor (an inherent feature, otherwise the device would be unable to execute any code regarding the configuration of the device), the node operable to perform one or more behaviors defined by the configuration record (p. 3, ¶ 27-28).

Tindal does not explicitly state that the configuration record defines a plurality of packet processing behaviors, rather that it is a configuration record and can enable the router (pp. 3-4, ¶ 35). In analogous art, Patterson discloses another system for programming a packet-based network having a plurality of nodes which discloses defining a service definition package defining a plurality of packet processing behaviors (i.e. logically connect various computing elements and storage devices in the system; load balancing configurations, and firewall configurations) (e.g. abstract; Figures 4B and 4C; pp. 15-16, ¶ 248-256). It would have been obvious to one of ordinary skill in the art to combine the teaching of Patterson with Tindal in order to allow the configuration records of Tindal to efficiently configure the device's functionality to an administrators specifications, resulting in a more efficient modification of the device.

5.   Claim 47 is rejected for similar reasons as stated above.

6.   Referring to claim 60, Tindal discloses the fourth logic element performs said monitoring indirectly using a proxy function (i.e. the health monitor can be construed as a proxy function since it monitors the devices on behalf of the network unit) (p. 4, ¶ 39).

7.   Referring to claim 61, Tindal discloses said proxy function utilizes an element manager function to provide access to information for said monitoring function (i.e. polling to gather information from the devices or operate in passive mode and allow the devices to report their status to the monitor) (p. 4, ¶ 39).

8.   Referring to claim 62, Tindal discloses a sixth logic element operable to validate

said network processors for implementing said service definition package (i.e. verify

change against policy, verify that commands are installed, and publish completion

indicator) (Figure 7, ref. 270, 300, and 305; p. 5, ¶ 51).

9.   Referring to claim 63, Tindal discloses a seventh logic element selectgs polling

tasks used for said monitoring (i.e. health monitor polls devices to gather information

from the devices) (p. 4, ¶ 39).

10.   Referring to claim 64, Tindal discloses receiving status information obtained from

said monitoring and is able to determine potential network device problems (p. 4, ¶ 39),

however does not specifically state summarizing the status information. In analogous

art, Patterson discloses summarizing said status information received from said

monitoring (i.e. generate reports based on status and performance of network nodes)

(p. 18, ¶ 280). It would have been obvious to one of ordinary skill in the art to combine

the teaching of Patterson with Tindal in order to in order to allow the configuration

records of Tindal to efficiently configure the device's functionality to an administrators

specifications, resulting in a more efficient modification of the device.

11.   Claims 65-69 are rejected for similar reasons as stated above.

Response to Arguments

12.   Applicant's arguments have been considered but are moot in view of the new rejection

Conclusion

13.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14.   Applicant has failed to seasonably challenge the Examiner's assertions of well known subject matter in the previous Office action(s) pursuant to the requirements set forth under MPEP §2144.03. A "seasonable challenge" is an explicit demand for evidence set forth by Applicant in the next response. Accordingly, the claim limitations the Examiner considered as "well known" in the first Office action, are now established as admitted prior art of record for the course of the prosecution. See In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).
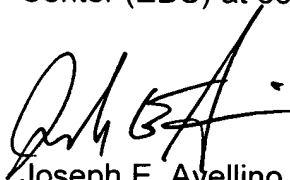
15.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
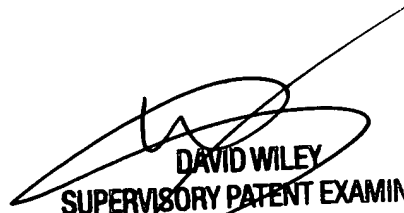
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph E. Avellino, Examiner
November 3, 2006

DAVID WILEY
SUPERVISORY PATENT EXAMINER
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